

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DIAGNOSTIC RESOURCE GROUP, L.L.C.

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Plaintiff

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L-02-CV-3020

vs.

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TOSHIBA AMERICA

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Defendant

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RESPONSE TO SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT

_____ Now comes the Plaintiff, in response to the Supplement to Motion for Summary Judgment and states that there were a number of scans performed on patients between April and June of 1998, but the equipment was not ready for patient care and thus not accepted as it could not be made to reliably work. As such, installation was not complete within the meaning of the agreement and therefore the equipment was not accepted. Therefore, Defendant is not entitled to judgment as a matter of law. If the machine could have been made to work reliably, then it would have been accepted by the Plaintiff. As it could not, there was no acceptance and installation was not complete. To that end, the affidavits of Mr. Low and Ms. Stehman addressed when the equipment was ready for patient care, and to that end, the depositions of these people have further been noted.

Respectfully Submitted,

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CERTIFICATION OF SERVICE

_____ This is to certify that on March 4, 2003 a copy of this pleading was sent by first class mail, postage pre-paid to the office of counsel for Defendant, Brooke Schumm, III, Esquire, Daneker, McIntire, Schumm, Prince, Goldstein, Manning & Widmann, P.C., One North Charles Street Suite 2450, Baltimore, Maryland, 21201.

Samuel Sperling